



Canada Energy
Regulator

Régie de l'énergie
du Canada

**Phillips 66 Canada Ltd. (Phillips Canada) Complaint
regarding TransCanada Keystone Pipeline GP Ltd.
(Keystone) Canada Energy Regulator (CER)
Tariff No. 44 (Complaint)**

**File Number OF-Tolls-Group1-T241-2019-01 01
Hearing Order RH-005-2020
16 December 2020**

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Explanation of Frequently Used Terms

The following are some terms used throughout this document and the hearing process. They are not legal definitions.

CER	Canada Energy Regulator
CER Act	The <i>Canadian Energy Regulator Act</i> .
Commission (we or us)	Commission of the CER
Commenter	A person who has registered to participate and may provide a letter of comment.
Complaint	The Phillips Canada Complaint regarding Keystone's CER Tariff No. 44
Decision	A report prepared by us that includes our decisions as to whether and what relief should be granted for the Complaint, and the reasons.
e-file	Filing documents electronically with the Commission.
evidence	Reports, statements, photographs, and other material or information, as well as any cross-examination that Participants submit as part of the record. Evidence is used to support their position on the Complaint.
file	A formal way of submitting documents to the Commission.
final argument	Summary of the evidence that states the position of Keystone, Phillips Canada and Intervenors, on the decisions we should make and the reasons why the evidence supports these decisions. Final argument is made at the end of the hearing.
hearing or public hearing	A public process we use to gather and test evidence to assess the Complaint so we can make fair and transparent decisions. The hearing may include a written portion and possibly an oral portion.

Information Request or IR	Written questions about Keystone, Phillips Canada or an Intervenor's evidence.
Intervenor	A person who is sufficiently impacted and/or their participation aids the Commission. Being approved as an Intervenor is the fullest way to participate in the hearing process.
Issues	A matter or subject set out by the Commission as an "issue" in the List of Issues for this hearing.
Keystone Pipeline System (Keystone Pipeline)	A pipeline that provides transportation of crude oil from Hardisty, Alberta to the international boundary near Haskett, Manitoba for ultimate delivery to the United States at Wood River and Patoka, Illinois; Cushing, Oklahoma; Port Arthur and Houston, Texas.
Keystone CER Tariff No. 44 (Revised Canadian Tariff or Proposed Tolls)	The tariff filed on 29 November 2019 that amends the Toll Schedule for the Keystone Tariff for 2020. It sets out the revised tolls applicable to the transportation on the Keystone Pipeline System.
List of Issues	See Appendix I.
Notice of Motion	A document used to raise a question of process or substance, or to ask us to do something. We make a decision about any motions we receive by way of a Notice of Motion.
Order	A CER order made under the CER Act.
Panel	Three Commissioners who will make decisions with regard to the Complaint.
Participant	A person who has registered to participate in the hearing and whose registration to participate has been approved by us. The term Participants includes Keystone, Phillips Canada, Intervenors, and Commenters.
Phillips 66 Canada Ltd. (Complainant or Phillips Canada)	The company that submitted the Complaint.

Proposed Tolls	The committed and uncommitted tolls payable for transportation on the Keystone Pipeline, as proposed in CER Tariff No. 44.
public registry	An online repository for the evidence filed in the hearing. It is the record that is available to the public. In most cases, the public registry and the record include the same information. However, in exceptional circumstances, the Commission may decide that certain information can be filed confidentially. This information is part of the record, but not available on the public registry.
record	The record includes all submissions and evidence filed or given orally in the proceeding, including documents such as the Complaint and the Hearing Order.
Regulatory Officer	CER staff who assist Participants, manages documentation before, during and after the hearing, performs court clerk duties at the oral hearing and manages the post-hearing process.
reply evidence	Additional information one Participant may file in reply to evidence filed by other Participants.
serve	Officially providing a copy of a document to the applicable Participant, such as Keystone. Notice that the document is available on the public registry is usually provided electronically (by e-mail) but the document may need to be provided to Keystone, Phillips Canada or Intervenors by mail or fax.
the Rules	The <i>National Energy Board Rules of Practice and Procedure, 1995</i> provides guidance on the CER's procedures. The Rules can be accessed on the CER's website.
TransCanada Keystone Pipeline GP Ltd., as general partner on behalf of TransCanada Keystone Pipeline Limited Partnership (Keystone)	Owner and operator of the Keystone Pipeline System and tariff at issue in the Complaint.

2020 Variable Tolls

The variable portion of the Proposed Tolls that reflects an estimate of changes in operating, maintenance and administrative costs for 2020. The variable toll true-up occurs after the end of each calendar year.

1 Hearing Overview

1.1 Introduction

The Canada Energy Regulator (CER) has a responsibility to regulate the construction, operation and abandonment of interprovincial and international pipelines. We are the three Commissioners who will make decisions with regard to the Phillips 66 Canada Ltd. (Phillips Canada) Complaint (further details about the Complaint are below).

The Commission of the CER (Commission) will hold a public hearing to consider the merits of the Complaint. During the public hearing, we will receive written evidence, which can be found on our website. The hearing may also include an oral portion. There are various ways we gather and test evidence during this hearing. We will review and consider all of the evidence on the record before we make our decisions. We rely only on the evidence on the record.

We will release a Decision which will take into account the issues raised in the Complaint, including whether the Proposed Tolls are just and reasonable, and not unjustly discriminatory.

The steps and deadlines in the hearing, as outlined in this document, are important to make the hearing fair, transparent and efficient, and to provide certainty to all those involved.

1.2 The Complaint

On 29 November 2019, TransCanada Keystone Pipeline GP Ltd. (Keystone), as the general partner on behalf of TransCanada Keystone Pipeline Limited Partnership, filed CER Tariff No. 44, which amends the Toll Schedule for the Keystone Canada Tariff for 2020 (Proposed Tolls). Amongst other revisions, the Proposed Tolls would increase the variable tolls by approximately 22.5 per cent in Canada (2020 Variable Tolls).

On 20 December 2019, Phillips Canada filed a Complaint with the CER regarding Keystone's 2020 Variable Tolls. Phillips Canada stated that Keystone had not provided sufficient or timely supporting factual or financial information such that shippers may determine whether the costs included in the 2020 Variable Tolls and the resulting increases are appropriate, or whether the 2020 Variable Tolls are just and reasonable in compliance with section 230 of the *Canadian Energy Regulator Act* (CER Act).

Phillips Canada requested that the CER:

- (a) establish a public proceeding, pursuant to sections 32, 226, 230, and 231 of the CER Act, to examine and consider whether the rates or tolls proposed to be charged through the Revised Canadian Tariff are just and reasonable (Public Proceeding);
- (b) immediately order the suspension of the Revised Canadian Tariff, pursuant to section 234 of the CER Act, pending the disposition of the Public Proceeding;
- (c) immediately order, pursuant to subsection 76(4) and section 226 of the CER Act, that the current Keystone Canada Tariff shall continue to have effect, on an interim basis, pending the disposition of the Public Proceeding; and
- (d) such further and other relief as the Commission may consider appropriate.

1.3 What is this document about?

This document is a hearing order and explains:

- where you can get more information;
- steps and deadlines;
- procedures; and
- the issues to be considered in the hearing.

1.4 Where can I see Phillips Canada's Complaint and get more information?

If you have Internet access, you may find the Complaint on our website. If you do not have Internet access, you may also ask Keystone or Phillips Canada for a copy.

You may find all documents filed in the hearing on our website. The only exceptions are when a document is too large or we have approved it as confidential information. Appendix IV shows how hearing documents are organized online and includes tips for using our website.

1.5 How may I stay informed of the hearing?

Anyone may observe the hearing process. You may observe the hearing process by:

- reading information about this hearing on our website – see Appendix IV;
- reading the evidence that has been filed on the public registry;
- listening to live broadcasts of any oral portion of the hearing through our website, should one be held; and
- reading the daily transcripts of the oral portion of the hearing.

Section 5.2 tells you how to stay informed using our website. Section 5.4 explains how to acquire transcripts of the oral hearing.

2 Participation in this Hearing

The Commission has determined that all persons who wished to participate in the hearing are required to register to participate (RTP), except Keystone and Phillips Canada who are automatically registered. The RTP process will be held from the release of the Hearing Order until **noon, Calgary time, 8 January 2021**. There will be two levels of participation: Commenters and Intervenors. The Commission will release the list of approved Participants soon after the RTP deadline.

2.1 What is a Commenter?

If you are registered to participate as a Commenter, you are allowed to file one letter of comment. It will be placed on the online public registry, will form part of the hearing record, and the Commission will read and consider it. Any additional letters or submissions will not be included on the record or considered. As a Commenter, you do not have the right to ask questions about the evidence or present argument.

Commenters will not be notified of, or receive documents that are filed on the online public registry. You will need to monitor the registry if you wish to remain aware of new filings on the record.

2.2 What do I write in my letter of comment?

As a Commenter in this proceeding, you may tell us your views by writing us a letter of comment. Your letter of comment should include:

- your name, mailing address, email, and phone number;
- the name of your organization, if you represent one;
- reference to Hearing Order RH-005-2020 and file OF-Tolls-Group1-T241-2019-01 01;
- comments on how you will be impacted by the issues raised in the Complaint;
- the relevant information about the Complaint that you have; and
- any information that explains or supports your comments.

There is no page limit to your letter, although clear and well-organized letters are encouraged.

2.2.1 How may I file a letter of comment?

Only those who have registered to participate as Commenters may file a letter of comment. To file a letter of comment, you must, by **noon Calgary time on 27 May 2021**, send your letter to us (and serve the other parties with it). For more information on submitting documents with the CER, see section 4.2.

2.3 What is an Intervenor?

Being an Intervenor requires a commitment of time and may involve some costs to prepare your evidence and send documents to Participants. It allows you, among other things, to:

- submit written evidence;
- ask questions about others' evidence;
- submit and respond to motions; and
- make a final argument.

If you submit evidence, you must answer any questions about your evidence.

Intervenors will be notified of, or receive all documents that are on the public registry. This includes the Complaint, evidence, notices of motion and all related materials. You can find the public registry on our website. For more information on how to find documents on our website - see Appendix IV.

2.4 May I withdraw?

If you are registered to be a Participant, you may withdraw at any time in the hearing process by telling us in writing. For more information on submitting documents with the CER, see section 4.2.

As an Intervenor, unless you formally withdraw, you will continue to regularly receive email notifications and/or hard copies of documents.

3 Steps in the Hearing

This section describes the steps in the hearing process.

3.1 Interested persons and Keystone provided comments

On 6 October 2020, the Commission issued a letter to recommence the comment process that it set out on 27 December 2019 and had suspended on 17 January 2020 at the request of Keystone and several shippers. Keystone was directed to file its comments on the matters raised in the Complaint, as well as comments on process, by noon on 14 October 2020. Phillips Canada, Husky Oil Operations Limited (Husky), and Coffeyville Resources Refining & Marketing, LLC (CRRM) were directed to file their reply comments by noon on 21 October 2020. Suncor Energy Marketing Inc. (Suncor) filed a comment letter before the comment process was suspended.

3.2 We issue the Hearing Order and the Notice of Hearing

The Commission has decided to set down the Complaint for a public hearing. The Hearing Order provides the process steps and schedule for the hearing. The Notice of Hearing and details on how to register to participate in the proceeding can be found in Appendix II attached to the Hearing Order.

Keystone is directed to distribute the Notice of Hearing to:

1. all Keystone shippers;
2. all persons who provided letters of comment;
3. the persons or agencies listed in Appendix III to this Hearing Order; and
4. any other interested persons not captured in items 1, 2 and 3 of this list.

3.3 The Commission receives registrations to participate in the proceeding

Registrations to participate are required to be filed with the CER by **noon, Calgary time, on 8 January 2021**.

3.4 We issue the List of Participants

We release the List of Participants soon after the registration to participate process closes. If you are a Participant, you must notify us if your contact information changes.

Immediately after receiving the List of Participants, Keystone must serve a copy of the Complaint and all related documents on each Intervenor who has not already received a copy.

3.5 Keystone files its evidence

By **noon, Calgary time, on 15 January 2021**, Keystone must file with us its written evidence, and it must also serve a copy on Phillips Canada and all Intervenors.

3.6 Phillips Canada and Intervenors file Information Request No. 1 to Keystone

Phillips Canada and all Intervenors may ask questions of Keystone. Their questions must be in writing and these are referred to as Information Requests. Every Information Request must be relevant to the evidence that has been placed on the record or, be related to one or more of the issues identified in Appendix I.

To submit Information Request No. 1 to Keystone, an Intervenor must, by **noon, Calgary time, on 4 February 2021**:

- file the Information Request with us;
- serve it on Keystone and its counsel; and
- serve it on Phillips Canada and all Intervenors.

3.7 Keystone responds to Phillips Canada and Intervenor Information Requests No. 1

By **noon, Calgary time, on 25 February 2021**, Keystone must:

- file responses to all Intervenor Information Requests with us; and
- serve a copy on Phillips Canada and all Intervenors.

3.8 Motions Filed

Any motions from Phillips Canada and Intervenors arising from Keystone's responses to Information Request No. 1 must be filed with the Commission and served on Keystone, Phillips Canada and other Intervenors by **noon, Calgary time, on 4 March 2021**. Keystone's response must be filed by **noon, Calgary time, on 9 March 2021**. Phillips Canada or the Intervenor who filed the motion must reply by **noon, Calgary time, on 12 March 2021**.

Phillips Canada, Intervenors and Keystone must use the Motion Chart format in Appendix VI.

3.9 Phillips Canada and Intervenors file Information Request No. 2 to Keystone

To submit Information Request No. 2 to Keystone, an Intervenor must, by **noon, Calgary time, on 1 April 2021**:

- file the Information Request with us;
- serve it on Keystone and its counsel; and
- serve it on Phillips Canada and all Intervenors.

3.10 Keystone responds to Phillips Canada and Intervenor Information Request No. 2

By **noon, Calgary time, on 22 April 2021**, Keystone must:

- file responses to all Intervenor Information Requests with us; and
- serve a copy on Phillips Canada and all Intervenors.

3.11 Motions Filed

Any motions from Phillips Canada and Intervenors arising from Keystone's responses to Information Request No. 2 must be filed with the Commission and served on Keystone, Phillips Canada and other Intervenors by **noon, Calgary time, on 29 April 2021**. Keystone's response

must be filed by **noon, Calgary time, on 4 May 2021**. Phillips Canada or the Intervenor who filed the motion must reply by **noon, Calgary time, on 7 May 2021**.

Phillips Canada, Intervenors and Keystone must use the Motion Chart format in Appendix VI.

3.12 Phillips Canada and Intervenors file written evidence, Commenters file Letters of Comment

By **noon, Calgary time, on 27 May 2021**, Phillips Canada and those Intervenors who want to provide evidence must:

- file written evidence with us; and
- serve a copy on Keystone, Phillips Canada and all other Intervenors.

The evidence must be relevant to one or more of the issues identified in Appendix I.

By **noon, Calgary time, on 27 May 2021**, Commenters must also file their letters of comment.

3.13 Keystone, Phillips Canada, and Intervenors submit Information Requests to Phillips Canada and other Intervenors

Keystone, Phillips Canada and Intervenors adverse in interest may ask Information Requests about the evidence of other Intervenors. To do this, they must, by **noon, Calgary time, on 17 June 2021**:

- file the Information Requests with us;
- serve them on the relevant party; and
- serve a copy on Keystone, Phillips Canada and all other Intervenors.

The Information Requests must be relevant to the evidence that has been placed on the record.

3.14 Parties respond to Information Requests

By **noon, Calgary time, on 8 July 2021**, parties who have been asked Information Requests must:

- file a copy with us of the responses to the Information Requests they receive; and
- serve a copy of those responses on Keystone, Phillips Canada and all other Intervenors.

3.15 Motions Filed

Any motions from parties adverse in interest arising from responses to Information Requests to Phillips Canada and Intervenors must be filed with the CER and served on Keystone, Phillips Canada and other Intervenors by **noon, Calgary time, on 15 July 2021**. The responding party's submission must be filed by **noon, Calgary time, on 20 July 2021**. The moving party's reply must be filed by **noon, Calgary time, on 23 July 2021**.

3.16 Keystone files reply evidence

By **noon, Calgary time, on 10 August 2021**, Keystone must file any reply evidence with us and serve a copy on Phillips Canada and all Intervenors.

3.17 Procedural Updates and Additional Hearing Steps

The Commission will issue procedural updates for additional hearing steps.

4 Procedures

This section describes how to submit documents, the deadlines, and other procedures.

4.1 How do I prepare documents?

Every document you file with us or serve on Keystone, Phillips Canada, and Intervenor must refer to Hearing Order RH-005-2020 and File OF-Tolls-Group1-T241-2019-01 01.

Address the document(s) to the proper recipient. For example, anything to be filed with the Commission should be addressed to the Secretary of the Commission. Documents specifically for others should be addressed to them using the List of Participants as a guide.

Number the pages of your document consecutively, including blank pages, so the electronic page numbers match the page numbers that show on your document. Also, please use the latest version of Adobe Acrobat.

Due to system constraints, all files must be less than 20 megabytes. If you have a document over that file size, you will need to split it up into two or more files that fall under the size limit before filing.

Sign every document you file with us.

If you refer to information on a website in your document:

- insert a direct link or a reference to the website, so anyone accessing the website may access the exact information you are referring to;
- make sure the reader does not require a password or subscription to get the information; and
- file a hard copy with us of all the information you are referring to.

Website information may change over time. Therefore, only the hard copy will become part of the official record in this proceeding.

4.2 How do I file documents with the Commission?

All documents submitted to the CER become part of the Public Registry (subject to any confidentiality request that may be granted). We require you to file your documents using e-file.

As of 17 March 2020, as a result of the CER's response to the COVID-19 pandemic, the [CER is postponing¹](#) the requirement to file a hard copy of submitted documents within three business days. Until further notice, please do not mail or fax documents to the CER. All Participants should continue to file documents using e-file. You should still prepare your hard copies, with the signed receipt, to be filed with the CER at a later date. If you have sensitive material that cannot be filed electronically, please contact the Regulatory Officer - see section 5.3.

¹ <https://www.cer-rec.gc.ca/bts/nws/whtnw/2020/2020-03-17-2-eng.html>

File Documents using E-file

To e-file documents, you must follow these steps:

1. Prepare the document as explained in section 4.1.
2. Go to our website, www.cer-rec.gc.ca. Under “Applications and hearings,” click on “Submit Applications and Documents”, “Online Tools”, “e-file (Electronic Document Submissions)” and follow the instructions. Refer to the *Filer’s Guide to Electronic Submission* on our website for more information. You will receive an email containing a submission receipt. Print the submission receipt and sign it.
3. The requirement to file hard copies of submissions is currently postponed. Once the CER has resumed the requirement to file hard copies of submissions, send one hard copy of the e-filed document(s) and one hard copy of the signed submission receipt to us by mail, hand delivery or courier. See section 5.1 for the CER’s contact information.

4.2.1 What if I cannot file my documents by e-file?

If you cannot file your documents by e-file, it may be filed by email to: Secretary@cer-rec.gc.ca.

Note that the filing date is the date that the information is received.

4.2.2 Who can help me with submitting my documents?

Contact the Regulatory Officer - see section 5.3.

4.3 How do I serve documents on others?

When you are required to serve documents, you must send one copy to Keystone and its counsel, and to Phillips Canada and each Intervenor on the List of Participants. As described in section 4.2, different ways of filing require different steps for service.

If you e-file documents, and if required to serve documents on relevant Participants, you must notify the relevant Participants by email when those documents have been filed. To do this, create a list of email addresses from the List of Participants and send an email to this list indicating that the filing is available on the CER’s website.

You can contact our Regulatory Officer for assistance with e-filing your documents - see section 5.3.

4.4 What if I cannot meet a deadline?

Our deadlines are set to provide fairness, efficiency and certainty to all participants. We encourage participants to e-file documents so others receive documents on time.

When you must submit documents by a certain deadline, the intended recipient must receive the documents by noon, Calgary time, on the date of the deadline.

Late filings will not be accepted, except with our permission. If you cannot meet a deadline, you must write to us to request an extension. We will then decide whether to grant your request by considering:

- the reason why you cannot meet the deadline;
- whether your submission is likely to assist us;
- whether others have made, or could have made, similar submissions;
- whether other Participants could be disadvantaged as a result of the late submission; and
- any other relevant considerations.

4.5 How do I raise a question of procedure or substance that requires a Commission decision?

If you want to ask us to do something, such as asking us to consider a change to the process, you must submit a request to us. This is called a Notice of Motion.

The Notice of Motion must include:

- a concise statement of the facts;
- the grounds for the request;
- the decision or relief requested; and
- any information which supports the request.

The Notice of Motion must:

- be in writing;
- be signed by the person making the motion or an authorized representative;
- be divided into consecutively numbered paragraphs;
- be filed with us, and served on Keystone, Phillips Canada and Intervenors; and
- be filed separately from any other correspondence.

If you are relying on case law or other authorities to support your position, you must submit a book of authorities and highlight the specific passages you are relying on. You must submit a copy to us and send a copy to Keystone, Phillips Canada and all Intervenors.

Motions should be made in accordance with section 35 of the *National Energy Board Rules of Practice and Procedure, 1995*, (the Rules) following the timelines set out in Appendix V.

4.6 Will you keep my evidence confidential?

All evidence we accept for this hearing will be on the public registry unless you file a Notice of Motion to keep your evidence confidential under sections 60 or 61 of the CER Act, and we accept your request for confidentiality.

4.7 Where may I go for more detailed information about the hearing procedures?

The Rules provide detailed information about the hearing process; however, in accordance with Rule 4, the Commission may dispense with or vary the Rules, and in the event of a discrepancy between the Rules and this Hearing Order, this Hearing Order prevails. You may also contact the Regulatory Officer - see section 5.3.

5 Contact Information

5.1 Our contact information for filing documents

Until further notice, please do not mail or fax documents to the CER. See section 4.2 for guidance on how to file documents with the Commission.

Secretary of the Commission
Canada Energy Regulator
Suite 210, 517 Tenth Avenue SW
Calgary, AB T2R 0A8
Email: Secretary@cer-rec.gc.ca
Phone: 403-292-4800
Toll-free phone: 1-800-899-1265

5.2 CER Website

We post the most current information about the hearing on our website. Go to <https://apps.cer-rec.gc.ca/REGDOCS/Item/View/3891130> to view filings related to this proceeding.

5.3 Regulatory Officer

If you need help with filing documents, or help with evidence or exhibits during the hearing, please contact the Regulatory Officer. Until further notice, please note that fax is unavailable. You may contact the Regulatory Officer via email or telephone, if needed, at:

Rachel Savoie
Email: regulatory.officers@cer-rec.gc.ca
Phone: 403-292-4800
Toll-free phone: 1-800-899-1265

5.4 Publications and Transcripts

For our publications, many are available on our website (www.cer-rec.gc.ca), including full transcripts for the oral portion of the hearing, should one be held.

5.5 Our library

As a result of the CER's response to the COVID-19 pandemic, the CER's library is closed until further notice. For more information on the library, including contact information, visit the CER's [library's webpage](#)².

² <https://www.cer-rec.gc.ca/en/about/library/index.html>

COMMISSION OF THE CANADA ENERGY REGULATOR

Signed by

Jean-Denis Charlebois
Secretary of the Commission

Attachments

Appendix I – List of Issues

The Commission has identified but does not limit itself to the following issues for discussion in the proceeding:

1. Whether the tolls set out in CER Tariff No. 44 have been determined in a manner consistent with the approved tolling methodology and Transportation Service Agreements.
2. The appropriateness of the variable tolls component as contained in CER Tariff No. 44 including, but not limited to, the appropriateness of the forecasted costs that have been included, and the appropriateness of recovering those costs from committed shippers.
3. Whether the tolls set out in CER Tariff No. 44 are just and reasonable, and not unjustly discriminatory.

Appendix II – Notice of Public Hearing and Registration to Participate

Notice of Public Hearing and Registration to Participate

Phillips 66 Canada Ltd. (Phillips Canada) Complaint regarding TransCanada Keystone Pipeline GP Ltd. Canada Energy Regulator (CER) Tariff No. 44 (Complaint)

On 20 December 2019, Phillips Canada filed a Complaint with the CER regarding the filing of CER Tariff No. 44 by TransCanada Keystone Pipeline GP Ltd. (Keystone), as the general partner on behalf of TransCanada Keystone Pipeline Limited Partnership. CER Tariff No. 44 amends the Toll Schedule for the Keystone Canada Tariff for 2020 (Proposed Tolls). Amongst other revisions, the Proposed Tolls would increase the variable tolls by approximately 22.5 per cent in Canada (2020 Variable Tolls).

The Commission of the CER (Commission) held a comment process which commenced 27 December 2019, was suspended on 17 January 2020 at the request of Keystone and several shippers, and recommenced on 6 October 2020.

The Commission has decided to establish a public hearing to consider the issues raised in the Phillips Canada Complaint. Hearing Order RH-005-2020 provides the details with regard to the List of Issues, process steps and schedule for this proceeding.

Information on the Complaint is available on the CER's website at: <https://apps.cer-rec.gc.ca/REGDOCS/Item/View/3891130>.

Participation in the CER's Hearing

Those persons who wish to participate in the CER's hearing must register to participate. Persons must clearly describe their interest in relation to the List of Issues for the hearing.

The Commission advises that those companies who provided letters of comment in response to the Complaint may participate as Intervenors in the proceeding, should they wish to participate¹. These parties should file a letter confirming their participation with the CER by **noon, Calgary time, on 8 January 2021**.

Other shippers on the Keystone pipeline and members of the public may also participate in this proceeding by filing a letter with the CER, indicating their intent to participate, **by noon, Calgary time, on 8 January 2021**. Persons should indicate the level of participation sought (Intervenor or Commenter) and explain why that level of participation is appropriate based on the List of Issues contained in Appendix I attached to Hearing Order RH-005-2020, and provided below.

List of Issues

The Commission has identified but does not limit itself to the following issues for discussion in the proceeding:

1. Whether the tolls set out in CER Tariff No. 44 have been determined in a manner consistent with the approved tolling methodology and Transportation Service Agreements.

¹ Husky Oil Operations Limited, Coffeyville Resources Refining & Marketing, LLC and Suncor Energy Marketing Inc.

2. The appropriateness of the variable tolls component as contained in CER Tariff No. 44 including, but not limited to, the appropriateness of the forecasted costs that have been included, and the appropriateness of recovering those costs from committed shippers.
3. Whether the tolls set out in CER Tariff No. 44 are just and reasonable and not unjustly discriminatory.

After receiving all registration letters, the Commission will issue its decision regarding the List of Participants.

The CER's preferred filing method for this proceeding is online through its e-filing tool, which provides step-by-step instructions. Please refer to the file number OF-Tolls-Group1-T241-2019-01 01. If unable to file a document online, it may be filed by email to Secretary@cer-rec.gc.ca.

The CER is dedicated to the safety and well-being of its staff, Indigenous communities, the public, and all those with whom we work closely. For more information on how the CER is continuing its regulatory oversight during the COVID-19 pandemic, please refer to the following update issued 11 December 2020: www.cer-rec.gc.ca/CovidProcessUpdate.

Appendix III – E-List of Interested Persons to be Served with Notice of Public Hearing and Registration to Participate in the Canada Energy Regulator Public Hearing RH-005-2020

***(Ministers of Justice / Attorney Generals
Ministres de la justice / procureur généraux)***

The Honourable David Lametti
Minister of Justice and Attorney General of Canada
Telephone/téléphone : 613-992-4621
Email/courriel : david.lametti@parl.gc.ca

Ms. Nathalie G. Drouin
Deputy Minister of Justice and Deputy Attorney General of Canada
Telephone/téléphone : 613-957-4998
Email/courriel : nathalie.g.drouin@justice.gc.ca

The Honourable Kaycee Madu
Minister of Justice and Solicitor General
Province of Alberta
Telephone/téléphone : 780-427-2339
Email/courriel : ministryofjustice@gov.ab.ca

The Honourable Cliff Cullen
Minister of Justice and Attorney General
Province of Manitoba
Telephone/téléphone : 204-945-3728
Email/courriel : minjus@leg.gov.mb.ca

The Honourable Gordon Wyant
Minister of Justice and Attorney General
Province of Saskatchewan
Telephone/téléphone : 306-787-1232
Email/courriel : jus.minister@gov.sk.ca

***(Other Government Departments or Agencies
/ Ministères et autres organismes gouvernementaux)***

The Honourable Sonya Savage
Minister of Energy
Deputy House Leader
Government of Alberta
Telephone/téléphone : 780-427-3740
Email/courriel : minister.energy@gov.ab.ca

Mr. Ben Coleman
Director, Regulatory Affairs
Alberta Department of Energy
Telephone/téléphone : 310-0000
Email/courriel : ben.coleman@gov.ab.ca

Mr. Douglas Larder, Q.C.
General Counsel and Executive Director, Law
Alberta Utilities Commission
Telephone/téléphone : 403-592-8845
Email/courriel : doug.larder@auc.ab.ca

The Honourable Bronwyn Eyre
Minister of Energy and Resources
Government of Saskatchewan
Telephone/telephone : 306-787-0804
Email/courriel : ministerer@gov.sk.ca

Ms. Jan Forster
Deputy Minister of Conservation and Climate
Government of Manitoba
Telephone/téléphone : 204-945-3785
Email/courriel : dmcc@leg.gov.mb.ca

(Associations)

Ms. Nancy Berard-Brown
Manager, Oil Markets and Transportation
Canadian Association of Petroleum Producers
Telephone/téléphone : 403-267-1114
Email/courriel : nancy.berardbrown@capp.ca

Mr. Chris Bloomer
President and CEO
Canadian Energy Pipeline Association
Telephone/téléphone : 403-221-8777
Email/courriel : cbloomer@cepa.com

Mr. Tristan Goodman
President
Explorers and Producers Association of Canada
Telephone/téléphone : 403-269-3454
Email/courriel : info@explorersandproducers.ca / tristan.goodman@explorersandproducers.ca

Appendix IV – How may I find documents on the CER’s website?

Website Navigation Tips:

1. You will find our website’s home page at: www.cer-rec.gc.ca.
2. Information for the Phillips Canada Complaint is available on the CER’s website at: <https://apps.cer-rec.gc.ca/REGDOCS/Item/View/3891130>.

At times, recently filed documents may not be on the public registry as they are waiting to be filed. You will find these documents in the “Recent Filings/Inbox.” This is located in “View Regulatory Documents.”

3. To learn about hearings in general and how to participate, go to “Applications and hearing”, click “Participate in a Hearing – Main page.” A number of helpful links are provided on this page to explain and support participation in a hearing process.
4. For information on how to file documents electronically, go to “[Filers Guide to Electronic Submission](#)”.
5. To find Acts, Regulations and Rules, go to the top of the home page and click “About Us” and then select “Acts and Regulations”.
 - a. Select the option “List of Acts and Regulations” to find *Canadian Energy Regulator Act*.
 - b. Select the option “*Canadian Energy Regulator Act- Regulations, Guidance Notes and Related Documents*”, click on “Regulatory Proceedings”, to find *National Energy Board Rules of Practice and Procedure, 1995*.

The Regulatory Officer can also help you with any questions about finding documents on our website.

Appendix V – Timetable¹

Events	Hearing Order Reference	Responsible Participant	Date of Deadline (noon Calgary time)
Release of the Hearing Order and Notice of Hearing	Section 3.2	Commission	15 December 2020
Register to Participate	Section 3.3	Persons wish to participate	8 January 2021
Release List of Participants	Section 3.4	Commission	Soon after Registration deadline
Keystone Written Evidence	Section 3.5	Keystone	15 January 2021
Submit Information Request No. 1 to Keystone	Section 3.6	Phillips Canada, Intervenor, Commission	4 February 2021
Respond to Information Requests No. 1	Section 3.7	Keystone	25 February 2021
Motions filed for Information Request No.1 Responses	Section 3.8	Phillips Canada, Intervenor	4 March 2021
Keystone files comments on motions	Section 3.8	Keystone	9 March 2021
Moving party or parties file reply	Section 3.8	Phillips Canada, Intervenor	12 March 2021
Submit Information Request No. 2 to Keystone	Section 3.9	Phillips Canada, Intervenor, Commission	1 April 2021
Respond to Information Requests No. 2	Section 3.10	Keystone	22 April 2021
Motions filed for Information Request No.2 Responses	Section 3.11	Phillips Canada, Intervenor	29 April 2021
Keystone files comments on motions	Section 3.11	Keystone	4 May 2021

¹ All submissions are due by noon, Calgary time, on the date specified

Moving party or parties file reply	Section 3.11	Phillips Canada, Intervenor	7 May 2021
Phillips Canada and Intervenor file written evidence and Commenters file letters of comment	Section 3.12	Participants	27 May 2021
Information Request No. 1 to Phillips Canada and Intervenor	Section 3.13	Keystone, Phillips Canada, Intervenor, Commission	17 June 2021
Phillips Canada and Intervenor respond to Information Request No. 1	Section 3.14	Intervenor	8 July 2021
Motions filed	Section 3.15	Keystone, Phillips Canada, Intervenor	15 July 2021
Responding party files comments	Section 3.15	Phillips Canada, Intervenor	20 July 2021
Moving party files reply	Section 3.15	Keystone, Phillips Canada, Intervenor	23 July 2021
Keystone Files Reply Evidence	Section 3.16	Keystone	10 August 2021
Additional Hearing Steps to be determined	Section 3.17	TBD	TBD

Appendix VI – Motion Chart

Phillips 66 Canada Ltd. (Phillips Canada) Complaint regarding TransCanada Keystone Pipeline GP Ltd. (Keystone) Canada Energy Regulator (CER)
Tariff No. 44 (Complaint)

1	2	3	4	5
Information Request	Response to Information Request	Filer's Submission	Respondent's Submission	Filer's Reply

Instructions:

1. Filers should try to group the Information Requests by issue or by the submission made in Column 3.
2. Column 1: Insert the number and text of the Information Request (the references and the preamble can be omitted).
3. Column 2: Insert the text of the given response to the Information Request.